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UNCLAS ANKARA 003027

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SUBJECT: Upcoming Revisions to Industrial Property  
Legislation

REF: Sirotic/Urban Email 5/27/05

1. (SBU) Summary: Two bills amending Turkish patent legislation are under consideration. One of these, which is not supported by the GOT, threatens to gut enforcement provisions for most foreign patent holders. The Ankara-based attorney who alerted us to this legislation remains concerned that generic pharmaceutical companies will continue to lobby for weaker patent protection in Turkey using other legislative vehicles. End Summary.

2. (U) Meeting with Econoff and Econ Specialist on May 25, Hulya Cayli, the President of Paragon Consultancy and Trade, Inc., outlined several separate bills which would amend the legal regime for industrial property. The GOT is soliciting comment from interested public and private parties on amendments to existing legislation on patents, trademarks, industrial designs and geographical indications. Cayli, as well as sources at the Turkish Patent Institute, said that the rationale for the amendments is 1) "legalization" of existing legislation, which was adopted by GOT decree and not approved by Parliament; and 2) harmonization with European patent legislation and the requirements of the patent cooperation treaty.

3. (SBU) Cayli, who works closely with the Association of Research-Based Pharmaceuticals Companies (AIFD), opined that, in its current form, the GOT's patent bill (ref email) did not contain major shortcomings for rightholders, and even contained useful provisions, such as protection for biotechnological inventions. However, she said the Bolar exception in the current draft was very unclear and could be unfairly exploited by generic drug manufacturers. Cayli also predicted that these companies would lobby for a weaker patent law during the legislative process.

4. (SBU) Cayli was much more concerned about another bill submitted by an MP from the ruling Ak party which would abolish penalties for infringing industrial property rights if the rightholder did not produce the good in question in Turkey. While this would be particularly absurd in the case of protection for geographical indications from outside Turkey, the bill would gut protection for foreign companies and persons across the board, and, if passed by Parliament, would represent a radical violation of Turkey's international trade and intellectual property obligations. She opined that the bill's sponsor was motivated by economic nationalism and the desire to force foreign companies to invest in production in Turkey. Cayli reported that the bill is currently in the Justice Commission of Parliament, and may be considered in conjunction with amendments to the Turkish criminal code. Note: The Justice Ministry and the Turkish Patent Institute do not/not support this bill. End Note.

5. (U) Post is attempting to obtain an English-language translation of the latter bill and will forward a copy to EB. Edelman